

REMARKS

The above-identified patent application has been amended and Applicants respectfully request the Examiner to reconsider and again examine the claims as amended.

Claims 1-16 are pending in the application. Claims 1, 7, and 8 are allowed. Claims 2-6 and 9-16 are rejected. Claims 2-6, 9, and 11-14 are amended herein, but not for reasons of patentability, as will be apparent. Claims 10, 15, and 16 are also amended herein.

The Claim Objections

The Examiner objects to Claims 2-6, 9, and 11-14, requiring that the word "A" in line 1 of each claim be replaced by the word "The." Applicants have amended Claims 2-6, 9, and 11-14 herein as required by the Examiner.

In view of the above, Applicants submit that the objections to the claims should be removed.

The Rejections under 35 U.S.C. §103(a)

The Examiner rejects Claims 10-16 under 35 U.S.C. §103(a) as being unpatentable over Gardner et al. (U.S. Patent number 7,454,002 ).

Applicants have amended independent Claims 10, 15, and 16 herein to recite certain limitations of Claim 1, which is allowed.

Applicants submit that amended independent Claims 10, 15, and 16 are patentably distinct over Gardner et al., since the cited reference neither describes nor suggests "... the mobile telecommunications device being provided with computer program means for calculating, from said position or speed, an exercise level of the user in terms of aerobic

capacity, wherein the aerobic capacity conforms to the relationship expressed as:  $VO_{2max} = a + bx + c(x^2)$  wherein  $VO_{2max}$  is the maximal oxygen consumption of a user, wherein  $a$ ,  $b$  and  $c$  are non-zero constants, and wherein  $x$  is a measure of distance per unit time," as set forth in Claims 10, 15, and 16, and that such omission represents a gap between the prior art and the claimed invention that is so great as to render the claim nonobvious to one reasonably skilled in the art.

The claimed invention calculates an "aerobic capacity" in a particular way. In contrast, Gardner et al. does not calculate an aerobic capacity at all.

In view of the above, Applicants submit the Claims 10, 15, and 16 are allowable over Gardner et al.

Claims 11-14 depend from and thus include the limitations of Claim 10. Thus, Applicants submit that Claims 11-14 are patentably distinct over the cited references at least for the reasons discussed above in conjunction with Claim 10.

In view of the above, Applicants submit that the rejection of Claims 10-16 under 35 U.S.C. §103(a) should be removed.

In view of the above Amendment and Remarks, Applicants submit that Claims 1-16 and the entire case are in condition for allowance and should be sent to issue and such action is respectfully requested.

The Examiner is respectfully invited to telephone the undersigning attorney if there are any questions regarding this Amendment or this application.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845, including but not limited to, any charges for extensions of time under 37 C.F.R. §1.136.

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Respectfully submitted,

DALY, CROWLEY, MOFFORD & DURKEE, LLP

By: Kermit Robinson

Kermit Robinson

Reg. No. 48,734

Attorney for Applicant(s)

354A Turnpike Street - Suite 301A

Canton, MA 02021-2714

Tel.: (781) 401-9988, Ext. 124

Fax: (781) 401-9966

*kr@dc-m.com*